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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,004

06/06/2005

Christy Cummins

16497.124

8672

57360 7590 08/13/2007

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EXAMINER

WOO, JULIAN W

ART UNIT

PAPER NUMBER

3731

MAIL DATE

DELIVERY MODE

08/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,004

Applicant(s)

CUMMINS ET AL.

Examiner

Julian W. Woo

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-21, 25 and 26 is/are rejected.
- 7) ☒ Claim(s) 22-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/1/05, 3/11/05, 7/12/07.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 21 and 24 are objected to because of informalities, which can be corrected as follows: In claim 21, line 1, after "inflated," insert a comma. In claim 24, line 1, after "clip," insert a comma. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-21, 25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Swanson et al. (6,113,612). Swanson et al. disclose, at least in figures 1 and 7-10 and in col. 7, line 1 to col. 8, line 20; a clip or a device including a ring (e.g., 10) having a resiliently expandable circumference and a plurality of barbed prongs (e.g., 42) extending at least approximately in the same direction from one edge of the ring, where the prongs converge (i.e., taper) slightly towards the center of the ring (near 54a), where the ring is sinuous (along 40), where the ring comprises a plurality of elongated segments (comprising segments 50a and 52a or 60a and 62a) each with a longitudinal slit (between segments), the segments being disposed side by side around the ring with their longitudinal axes substantially parallel and being joined each to the next by a relatively narrow waist (at 54a or 54b); where the device includes an elongated body

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(230) having a front end for insertion through a hole in a blood vessel, a clip expander (110) positioned on the body rearwardly of the front end, a clip (10) having a ring disposed around the expander and prongs (24 or 42) projecting towards the front end of the body, where the clip expander is actuable to resiliently expand the circumference of the ring, the clip being movable forwardly in its expanded state so that the prongs pierce the tissue around the hole, the clip expander thereafter being actuable to release the clip so that the body and clip expander can be withdrawn from the ring, where the clip expander comprises an inflatable enclosure (110) surrounding the body, the enclosure being actuable by introducing fluid under pressure into the enclosure (i.e., inflated) and actuable to release the clip by venting the fluid (i.e., deflated), where the fluid is introduced into the enclosure via a longitudinal bore in the body, wherein when inflated, the enclosure has a shoulder behind the ring (see fig. 10, where element 110 has proximal and distal shoulders upon inflation), where the body has a longitudinal bore to slidably accommodate a guide wire (210), and where the body has a longitudinal bore to serve as a blood return channel. Note: The introductory statement of intended use ("for closing a puncture hole in a blood vessel") has been carefully considered but deemed not to impose any structural limitations on the claims patentably distinguishable over the device of Swanson et al., which is capable of being used as claimed if one desires to do so.

Allowable Subject Matter

3. Claims 22-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record, alone or in combination, discloses a device including, inter alia, an elongated body, a clip expander, a clip having a ring and prongs, where the clip expander is actuable to resiliently expand the circumference of the ring and actuable to release the clip, where the clip expander comprises a sleeve surrounding the body which has one end fixed relative to the body, a section of the sleeve intermediate its ends being slit longitudinally to form a plurality of splines which can be forced mutually outwardly by sliding the other end of the sleeve along the body towards the fixed end of the sleeve, and where the clip is mounted on the splined section.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Taheri (6,120,524) teaches a clip or device for closing a puncture hole in a blood vessel..

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is (571) 272-4707. The examiner can normally be reached Mon.-Fri., 7:00 AM to 3:00 PM Eastern Time, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julian W. Woo
Primary Examiner

August 5, 2007